



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TRG  
Docket No: 971-00  
8 March 2000

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments  
(2) Case Summary  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps filed enclosure (1) with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 5 July 1987.

2. The Board, consisting of Mr. Dunn, Mr. Brezna and Ms. Hare, reviewed Petitioner's allegations of error and injustice on 7 March 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. The record shows that on 17 December 1981 Petitioner was issued a Notification of Eligibility for Retired Pay at Age 60. He continued to serve and on 6 January 1985 he reenlisted in the Marine Corps Reserve for two years in the grade of SGTMAJ (E-9). The next entry in the record shows that he was honorably discharged on 5 July 1987 at the expiration of his enlistment. Petitioner became 60 years old on 5 December 1999.

d. The Board did not request an advisory opinion in this case. However, the Board is aware that Headquarters Marine Corps has routinely recommended corrective action in similar cases



where an individual is qualified for reserve retirement and there is no explanation in the record as to why the individual was discharged and not retired.

e. The Board is aware that the Uniform Retired Date Act, 5 U.S.C. 8301 requires that the effective date of any retirement be the first day of the month.

#### CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner was in good standing in the Marine Corps Reserve and would have been retired if he had requested it. Therefore, the Board concludes that the record should be corrected to show that he transferred to the Retired Reserve in the grade of SGTMAJ. Given the requirements of the Uniform Retirement Date Act, the Board concludes that he should be transferred to the Retired Reserve, effective on 1 July 1987. Since Petitioner is now 60 years old, the Board further concludes that he should be transferred to the Retired List on 5 December 1999, his 60th birthday.

Finally the Board concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his correct status in the Marine Corps Reserve.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he transferred to the Retired Reserve on 1 July 1987 in the grade of SGTMAJ vice being discharged on 5 July 1987. The record should be further corrected to show that he transferred to the Retired List on his 60th birthday, 5 July 1987.

b. That this Report of Proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder

  
ALAN E. GOLDSMITH  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section



6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



For W. DEAN PFEIFFER  
Executive Director